

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DIETRICK LEWIS JOHNSON, SR.,
Plaintiff

v.

USP-CANAAN, et al.,
Defendants

:
:
:
:
:
:
:

No. 1:21-cv-01751

(Judge Kane)

ORDER

AND NOW, on this 31st day of May 2022, upon consideration of Plaintiff's amended complaint (Doc. Nos. 10, 11), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Plaintiff's amended complaint (Doc. Nos. 10, 11) is **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1);
2. Plaintiff's claims against Defendant USP Canaan are **DISMISSED WITH PREJUDICE**, and the Clerk of Court is directed to **TERMINATE** Defendant USP Canaan as a defendant in this case;
3. Plaintiff's false imprisonment claim under the FTCA is **DISMISSED WITH PREJUDICE**;
4. Plaintiff's First Amendment and Fifth Amendment claims under Bivens are **DISMISSED WITH PREJUDICE**;
5. Plaintiff's Eighth Amendment deliberate indifference to a serious medical need claim under Bivens is **DISMISSED WITHOUT PREJUDICE**;
6. Plaintiff is **GRANTED** leave to file a second amended complaint to: amend his Eighth Amendment deliberate indifference to a serious medical need claim under Bivens; state a plausible claim under the FTCA; and clarify his racial discrimination claim;
7. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form "Second Amended Complaint" and shall include the docket number for this case, 1:21-cv-01751;

8. In the event that Plaintiff fails to file a second amended complaint within **30 days** of the date of this Order, this action will be subject to dismissal for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure; and
9. The Clerk of Court shall modify Plaintiff's docket entries at number ten (10) and eleven (11) as follows:
 - (a) Attach Plaintiff's typed amended complaint (Doc. No. 11) to the form amended complaint (Doc. No. 10) as attachment number one. The Clerk of Court shall title attachment number one as "Amended Complaint (Part Two);"
 - (b) Attach Plaintiff's exhibits (Doc. No. 11-1) to Plaintiff's form complaint (Doc. No. 10) as attachment number two (2). The Clerk of Court shall title attachment number two (2) as "Exhibits;" and
 - (c) Once complete, the Clerk of Court shall delete docket entry number eleven (11), titled "Motion for Leave to File" (Doc. No. 11).

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania